No. 84-908

Office-Supreme Court, U.S.
FILED
JAN 3 1985
ALEXANDER L. STEVAS,
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

CHURCH OF SCIENTOLOGY OF CALIFORNIA AND MARY SUE HUBBARD,

Petitioners,

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES,

Respondent.

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

DE WITT W. CLINTON
County Counsel

GORDON W. TRASK
Senior Deputy
County Counsel

648 Hall of Administration
500 West Temple Street
Los Angeles, California 90012
(213) 974-1886

Attorneys for Respondent
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

QUESTION PRESENTED

1. Have the plaintiffs been deprived of a federal Constitutional or statutory right, without due process of law, by a state trial court making exhibits and documents offered as evidence in a civil trial available for public inspection where: (1) the decision to make such exhibits available for public inspection was made on a document by document basis, and (2) the state trial court's decision was reviewed by each of the state's two appellate tribunals.

TOPICAL INDEX

	Page
Questions Presented	i
OPINION BELOW	1
JURISDICTION	2
MEMORANDUM OPPOSING CERTIORARI	3
CONCLUSION	6

TABLE OF AUTHORITIES

Huffman v. Pursue Ltd., 420 U.S. 592, 95 S.Ct. 1200, 43 L.Ed.2d 482 (1975)	5
Nixon v. Warner Communications Inc., 435 U.S. 589, 98 S.Ct. 1306, 55 L.Ed.2d 570 (1978)	4

No. 84-908

IN THE

SUPREME COURT

OF THE UNITED STATES

OCTOBER TERM, 1984

CHURCH OF SCIENTOLOGY OF CALIFORNIA AND MARY SUE HUBBARD,

Petitioners,

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES,

Respondent.

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

The orders of the United States District Court and United States Court of Appeal for the Ninth Circuit are contained in the

appendix to the petition.

The judgment of the Superior Court in the case of Church of Scientology of California and Mary Sue Hubbard v. Gerald Armstrong, Case No. C 420153, is contained in the appendix to this Opposition to Petition for Writ of Certiorari.

Defendant Superior Court's Motion to Dismiss the action is calendared for January 14, 1985 in the District Court. (See page A-1 of Appendix hereto.)

JURISDICTION

By the time this court considers the petition, the case may have been rendered moot.

The Ninth Circuit's order sealing the documents expired at 5:00 p.m. on December 7, 1984.

The Superior Court's order of December 3, 1984 (see pages A-3, A-4 and A-5 of Appendix hereto), made the documents public. The Documents were opened to the public on December 19, 1984.

On December 20, 1984, the California Superior Court, in a related case entitled Roe 1 et al. v. Superior Court, Case No. C 527 556, sealed these same documents.

On December 27, the Superior Court ordered that the documents remain sealed pending a hearing for a requested preliminary injunction in the case of Roe 1 et al. v. Superior Court. That hearing is calendered for January 16, 1985.

MEMORANDUM OPPOSING CERTIORARI

Plaintiffs CHURCH OF SCIENTOLOGY of California and MARY SUE HUSBAND filed suit against GERALD ARMSTRONG in the Superior

Court of California. The suit sought return of documents allegedly taken from the plaintiff CHURCH by Mr. ARMSTRONG. Mr. ARMSTRONG submitted numerous documents into evidence during the course of the trial. These documents and documents marked for identification have been ordered by the state trial judge to be available for public inspection. The state trial court made some, but not all, of the documents available for public access after a

document by document determination. See the trial court's memorandum of intended decision at pages A-6 through A-10 of the appendix hereto.

The petitioners were granted temporary orders sealing the documents by both the California Court of Appeal and the California Supreme Court. (See Petition at page 20)

It is clearly established as a rule of law in this country that the records of the courts are generally open for public inspection. While there is no absolute right on the part of the public to inspect all court records, this Court has recognized that courts have supervisory power over their documents and that the decision to grant or deny public access to court documents is a matter to be left in the sound discretion of the trial court, Nixon v. Warner Communications, Inc., 435 U.S. 589, 597-599, 98 S.Ct. 1306, 1312, 55

L.Ed.2d 570 (1978).

The petitioners fail to show any abuse of discretion by the trial court with respect to public access to the documents, or any lack of due process in the state appellate courts' review of that decision.

The lower federal courts have properly refused to exercise their equitable jurisdiction by interfering with the functioning of the state courts. See Huffman v. Pursue Ltd., 420 U.S. 592, 43 L.Ed.2d 482, 95 S.Ct. 1200 (1975).

CONCLUSION

Petitioners have not shown the violation of any federal Constitutional or statutory right, and have been provided due process of law. The petition for Writ of Certiorari should be denied.

DATED:

Respectfully submitted,

DE WITT W. CLINTON
County Counsel

By: GORDON W. TRASK
Senior Deputy

Attorneys for Respondent

APPENDIX

DE WITT W. CLINTON, County Counsel
GORDON W. TRASK, Senior Deputy County Counsel
648 hall of Administration
500 West Temple Street
Los Angeles, California 90012

(213) 974-1886

Attorneys for Defendant
SUPERIOR COURT OF THE STATE
OF CALIFORNIA, COUNTY OF
LOS ANGELES

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CHURCH OF SCIENTOLOGY and MARY SUE HUBBARD,	) CASE NO. CV 84-8837 HLH
Plaintiffs,	) NOTICE OF HEARING DATE
vs.	)
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES	) DATE: January 14, 1985) TIME: 10:00 a.m.) COURTROOM: 255
Defendant.	)

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

Defendant SUPERIOR COURT'S Motion To Dismiss, noticed to be heard on January 7, 1985 at 10:00 a.m. in courtroom 255 has

been set by the court to be heard on January 14, 1985 at 10:00 a.m. in courtroom 255 of the UNITED STATES COURTHOUSE, located at 312 North Spring Street, Los Angeles, California.

DATED: (December 13, 1984)

Respectfully submitted,

DE WITT W. CLINTON,
County Counsel

By /s/
GORDON W. TRASK
Senior Deputy County Counsel

Attorneys for Defendant.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

Date DEC.3, 1984
HONORABLE P G BRECKENRIDGE, JR JUDGE
P. RICO, COURT ATTENDANT
R HART Deputy Clerk
N HARRIS Reporter

C 420155
CHURCH OF SCIENTOLOGY OF CALIFORNIA,

VS

GERALD ARMSTRONC,

Counsel for Pltf.
Litt & Stormer
BY: MICHAEL S. MAGNUSON
Counsel for Deft.
Peterson & Brynan
BY: JOHN G. PETERSON
Overland, Berke, Wesley et al
BY: DONALD C. RANDOLPH
MICHAEL LEE HERTZBERG-Pro Hac Vice
O'Toole, Bisceglie & Walsh
BY: JEFFREY B. O'TOOLE-ProHac Vice

Contos & Bunch
BY: JULIA DRAGOJEVIC
for Deft. Armstrong

United States Attorney
BY: KATHRYN TATE AND JOHN W. TOOTHMAN
for moving party

NATURE OF PROCEEDINGS:
SECOND NOTICE OF MOTION OF UNITED STATES, A NON PARTY, TO INSPECT AND COPY GERTAIN SEALED EXHIBITS

Upon request of counsel, Michael Lee

Hertzberg for plaintiff and Deputy United

States Attorney John W. Toothman for moving party, are permitted to appear Pro Hac Vice.

Counsel for plaintiff Chruch represents to the Court that a Motion under 170.6(2) CCP has been filed and requests that the Motion be set for hearing. The Court orders the 170.6(2) CCP stricken as untimely and the request to set forhearing is denied. Upon request of plaintiff the Court finds that plaintiff has not waived any rights under 170.6(2) CCP by proceeding with this hearing.

The Motion to inspect is argued and continued to February 11, 1985 at 9 A.M. this dept.

The Court orders that none of the exhibits are to be made available to anyone until the Order of the 9th Circuit or any Order of the Supreme Court has expired. And thereafter no one is to be permitted access

to the exhibits ordered sealed by this Court. The unmarked exhibits are subject to the continuing jurisdiction of this Court to permit inspection or the parties may avail themselves of Judge Cole's order.

The Court orders that the Clerk of this courtroom, R. Hart, be assigned to segregate the exhibits.

Plaintiff's request that certified copies of the unsealed documents be used by the exhibit room for public inspection, is granted at the expense of plaintiff. Request of both sides to make copies of the certified copies is granted and each side to bear own costs; counsel to contact the Clerk for procedure and fees.

The County Clerk is directed to follow Standard Operating Procedures in inspection and copying exhibits.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF CALIFORNIA, Plaintiff, vs. GERALD ARMSTRONG, Defendant. MARY SUE HUBBARD, Intervenor.	No. C. 420153 MEMORANDUM OF INTENDED DECISION

In this matter heretofore taken under submission, the Court announces its intended decision as follows:

As to the tort causes of action, plaintiff, and plaintiff in intervention are to take nothing, and defendant is entitled to Judgment and costs.

As to the equitable actions, the court finds that neither plaintiff has clean

hands, and that at least as of this time, are not entitled to the immediate return of any document or objects presently retained by the court clerk. All exhibits received in evidence or marked for identification, unless specifically ordered sealed[1], are matters of public record and shall be available for public inspection or use to the same extent that any such exhibit would be available in any other lawsuit. In other words they are to be treated henceforth no differently than similar exhibits in other cases in Superior Court. Furthermore, the "inventory list and description," of materials turned over by Armstrong's

---

1. Exhibits in evidence No. 500-40; JJJ; KKK; LLL; MMM; NNN; OOO; PPP; QQQ; RRR; and 500-QQQQ.

Exhibits for identification only No. JJJJ; Series 500-DDDD, EEEE, FFFF, GGGG, HHHH, IIII, NNNN-1, OOOO, ZZZZ, CCCCC, GGGGG, IIIII, KKKKK, LLLLL, OOOOO, PPPPP, QQQQQ, BBBBBB, OOOOOO, BBBBBBB.

attorneys to the cttorneys by the court, shall not be considered or deemed to be confidential, private, or under seal.

All other documents or objects presently in the possession of the clerk (not marked herein as court exhibits) shall be retained by the clerk, subject to the same orders as are presently in effect as to sealing and inspection, until such time as trial court proceedings are concluded as to the severed cross complaint. For the purposes of this Judgment, conclusion will occur when any motion for a new trial has been denied, or the time within such a motion must be brought has expired without such a motion being made. At that time, all documents neither received in evidence, nor marked for identification only, shall be released by the clerk to plaintiff's representatives. Notwithstanding this order, the parties may at any time by written stipulation filed

with the clerk obtain release of any or all such unused materials.

Defendant and his counsel are free to speak or communicate upon any of Defendant Armstrong's recollections of his life as a Scientologist or the contents of any exhibit received in evidence or marked for identification and not specifically ordered sealed. As to all documents, and other materials held under seal by the clerk, counsel and the defendant shall remain subject to the same injunctions as presently exist, at least until the conclusion of the proceedings on the cross complaint. However, in any other legal proceedings in which defense counsel, or any of them, is of record, such counsel shall have the right to discuss exhibits under seal, or their contents, if such is reasonably necessary and incidental to the proper representation of his or her client.

Further, if any court of competent jurisdiction orders defendant or his attorney to testify concerning the fact of any such exhibit, document, object, or its contents, such testimony shall be given, and no violation of this order will occur. Likewise, defendant and his counsel may discuss the contents of any documents under seal or of any matters as to which this court has found to be privileged as between the parties hereto, with any duly constituted Governmental Law Enforcement Agency or submit any exhibits or declarations thereto concerning such document or materials, without violating any order of this court.

This court will retain jurisdiction to enforce, modify, alter, or terminate any injunction included within the Judgment.

Counsel for defendant is ordered to prepare, serve, and file a Judgment on the Complaint and Complaint in Intervention,

and Statement of Decision if timely and properly requested, consistent with the court's intended decision.

Discussion

The court has found the facts essentially as set forth in defendant's trial brief, which as modified, is attached as an appendix to this memorandum. In addition the court finds that while working for L.R. Hubbard (hereinafter referred to as LRH), the defendant also had an informal employer-employee relationship with plaintiff Church, but had permission and authority from plaintiffs and LRH to provide Omar Garrison with every document or object that was made available to Mr. Garrison, and further, had permission from Omar Garrison to take and deliver to his attorneys the documents and materials which were subsequently delivered to them and

thenceforth into the custody of the County Clerk.

Plaintiff Church as made out a prima facie case of conversion (as bailee of the materials), breach of fiduciary duty, and breach of confidence (as the former employer who provided confidential materials to its then employee for certain specific purposes, which the employee later used for other purposes to plaintiff's detriment). Plaintiff Mary Jane Hubbard has likewise made out a prima facie case of conversion and invasion of privacy (misuse by a person of private matters entrusted to him for certain specific purposes only).

While defendant has asserted various theories of defense, the basic thrust of his testimony is that he did what he did, because he believed that his life, physical and mental well being, as well as that of his wife were threatened because the

organization was aware of what he knew about the life of LRH, the secret machinations and financial activities of the Church, and his dedication to the truth. He believed that the only way he could defend himself, physically as well as from harassing lawsuits, was to take from Omar Garrison those materials which would support and corroborate everything that he had been saying within the Church about LRH and the Church, or refute the allegations made against him in the April 22 Suppressive Person Declare. He believed that the only way he could be sure that the documents would remain secure for his future use was to send them to his attorneys, and that to protect himself, he had to go public so as to minimize the risk that LRH, the Church, or any of their agents would do him physical harm.

This conduct if reasonably believed in by defendant and engaged in by him in good

faith, finds support as a defense to the plaintiff's charges in the Restatements of Agency, Torts, and case law.

Restatement of Agency, Second, provides:

" Section 395f: An agent is privileged to reveal information confidentially acquired by him in the course of his agency in the protection of a superior interest of himself or a third person.

"Section 418: An agent is privileged to protect interests of his own which are superior to those of the principal, even though he does so at the expense of the principal's interest or in disobedience to his orders."

Restatement of torts, Second, section 271:

"One is privileged to commit an act which would otherwise be a

trespass to or a conversion of a chattel in the possession of another, for the purpose of defending himself or a third person against the other, under the same conditions which would afford a privilege to inflict harmful or offensive contact upon the other for the same purpose."

The Restatement of Torts, Second, section 652a, as well as case law, make it clear that not all invasions of privacy are unlawful or tortious. It is only when the invasion is unreasonable that it becomes actionable. Hence, the trier of fact must engage in a balancing test, weighing the nature and extent of the invasion, as against the purported justification therefore to determine whether in a given case, the particular invasion of intrusion was unreasonable.

In addition the defendant has asserted as a defense the principal involved in the case of Willig v. Gold, 75 Cal.App.2d, 809, 814, which holds that an agent has a right or privilege to disclose his principal's dishonest acts to the party prejudicially affected by them.

Plaintiff Church as asserted and obviously has certain rights arising out of the First Amendment. Thus, the court cannot, and has not, inquired into or attempted to evaluate the merits, accuracy, or truthfulness of Scientology or any of its precepts as a religion. First Amendment rights, however, cannot be utilized by the Church or its members, as a sword to preclude the defendant, whom the Church is suing, from defending himself. Therefore, the actual practices of the Church or its members, as it relates to the reasonableness of the defendant's conduct and his state of mind

are relevant, admissible, and have been considered by the court.

As indicated by its factual findings, the court finds the testimony of Gerald and Jocelyn Armstrong, Laurel Sullivan, Nancy Dincalcis, Edward Walters, Omar Garrison, Kima Douglas, and Howard Schomer to be credible, extremely persuasive, and the defense of privilege or justification established and corroborated by this evidence. Obviously, there are some discrepancies or variations in recollections, but these are the normal problems which arise from lapse of time, or from different people viewing matters or events from different perspectives. In all critical and important matters, their testimony was precise, accurate, and rang true. The picture painted by these former dedicated Scientologists, all of whom were intimately involved with LRH, or Mary Jane Hubbard, or of the Scientology

Organization, is on the one hand pathetic, and on the other, outrageous. Each of these persons literally gave years of his or her respective life in support of a man, LRH, and his ideas. Each has manifested a waste or loss or frustration which is incapable of description. Each has broken with the movement for a variety of reasons, but at the same time, each is, still bound by the knowledge that the Church has in its possession his or her most inner thoughts and confessions, all recorded in "pre-clear (P.C.) folders" or other security files of the organization, and that the Church or its minions is fully capable of intimidation or other physical or psychological abuse if it suits their ends. The record is replete with evidence of such abuse.

In 1970 a police agency of the French Government conducted an investigation into Scientology and concluded, "this sect, under

the pretext of 'freeing humans' is nothing in reality but a vast enterprise to extract the maximum amount of money from its adepts by (use of) pseudo-scientific theories, by (use of) 'auditions' and 'stage settings' (lit. to create a theatrical scene') pushed to extremes (a machine to detect lies, its own particular phraseology . .), to estrange adepts from their families and to exercise a kind of blackmail against persons who do not wish to continue with this sect."[2] From the evidence presented to this court in 1984, at the very least, similar conclusions can be drawn. In addition to violating and abusing its own members civil rights, the organization over the years with its "Fair Game" doctrine has harassed and abused those persons not in the Church whom it perceives as enemies. The organization

---

2. Exhibit 500-HHHHH.

clearly is schizophrenic and paranoid, and this bizarre combination seems to be a reflection of its founder LRH. The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background, and achievements. The writings and documents in evidence additionally reflect his egoism, greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile. At the same time it appears that he is charismatic and highly capable of motivating, organizing, controlling, manipulating, and inspiring his adherents. He has been referred to during the trial as a "genius," a "revered person," a man who was "viewed by his followers in awe." Obviously, he is and has been a very complex person, and that complexity is further reflected in his alter ego, the Church of Scientology. Notwithstanding

protestations to the contrary, this court is satisfied that LRH runs the Church in all ways through the Sea Organization, his role of Commodore, and the Commodore's Messengers.[3] He has, of course, chosen to go into "seclusion," but he maintains contact and control through the top messengers. Seclusion has its light and dark side too. It adds to his mystique, and yet shields him from accountability and subpoena or service of summons.

LRH's wife, Mary Sue Hubbard is also a plaintiff herein. On the one hand she certainly appeared to be a pathetic individual. She was forced from her post as Controller, convicted and imprisoned as a felon, and deserted by her husband. On the other hand her credibility leaves much to be desired. She struck the familiar pose

---

3. See Exhibit K: Flag Order 3729 - 15 September 1978 "Commodore's Messengers."

of not seeing, hearing, or knowing any evil. Yet she was the head of the Guardian Office for years and among other things, authored the infamous order 'go 121669"[4] which directed culling of supposedly confidential P.C. files/folders for purposes of internal security. In her testimony she expressed the feeling that defendant by delivering the documents, writings, letters to his attorneys, subjected her to mental rape. The evidence is clear and the court finds that defendant and Omar Garrison had permission to utilize these documents for the purpose of Garrison's proposed biography. The only other persons who were shown any of the documents were defendant's attorneys, the Douglasses, the Dincalcis, and apparently some documents specifically affecting LRH's son "Nibs," were shown to "Nibs."

---

4. Exhibit AAA.

The Douglasses and Dincalcises were disaffected Scientologists who had a concern for their own safety and mental security, and were much in the same situation as defendant. They had not been declared as suppressive, but Scientology had their P.C. folders, as well as other confessions, and they were extremely apprehensive. They did not see very many of the documents, and it is not entirely clear which they saw. At any rate Mary Sue Hubbard did not appear to be so much distressed by this fact, as by the fact that Armstrong had given the documents to Michael Flynn, whom the Church considered its foremost lawyer-enemy.[5] However, just as the plaintiffs have First Amendment rights, the defendant has a

---

5. "No, I think my emotional distress and upset is the fact that someone took papers and materials without my authorization and then gave them to your Mr. Flynn." Reporter's Transcript, p. 1006.

Constitutional right to an attorney of his own choosing. In legal contemplation the fact that defendant selected Mr. Flynn rather than some other lawyer cannot by itself be tortious. In determining whether the defendant unreasonably invaded Mrs. Hubbard's privacy, the court is satisfied the invasion was slight, and the reasons and justification for defendant's conduct manifest. Defendant was told by Scientology to get an attorney. He was declared an enemy by the Church. He believed, reasonably, that he was subject to "fair game." The only way he could defend himself, his integrity, and his wife was to take that which was available to him and place it in a safe harbor, to wit, his lawyer's custody. He may have engaged in overkill, in the sense that he took voluminous materials, some of which appear only marginally relevant to his defense. But he was not a lawyer

and cannot be held to that precise standard of judgment. Further, at the time that he was accumulating the material, he was terrified and undergoing severe emotional turmoil. The court is satisfied that he did not unreasonably intrude upon Mrs. Hubbard's privacy under the circumstances by in effect simply making his knowledge that of his attorneys. It is, of course, rather ironic that the person who authorized G.O. order 121669 should complain about an invasion of privacy. The practice of culling supposedly confidental "P.C. folders or files" to obtain information for purposes of intimidation and/or harassment is repugnant and outrageous. The Guardian's Office, which plaintiff headed, was no respector of anyone's civil rights, particularly that of privacy. Plaintiff Mary Sue Hubbard's cause of action for conversion must fail for the same reason as plaintiff Church.

The documents were all together in Omar Garrison's possession. There was no rational way the defendant could make any distinction.

Insofar as the return of documents is concerned, matters which are still under seal may have evidentiary value in the trial of the cross complaint or in other third party litigation. By the time that proceedings on the cross complaint are concluded, the court's present feeling is that those documents or objects not used by that time should be returned to plaintiff. However, the court will reserve jurisdiction to reconsider that should circumstances warrant.

Dated: June 20, 1984

/s/

PAUL G. BRECKENRIDGE, JR.
Judge of the Superior Court

Appendix

Defendant Armstrong was involved with Scientology from 1969 through 1981, a period spanning 12 years. During that time he was a dedicated and devoted member who revered the founder, L. Ron Hubbard. There was little that Defendant Armstrong would not do for Hubbard or the Organization. He gave up formal education, one-third of his life, money and anything he could give in order to further the goals of Scientology, goals he believed were based upon the truth, honesty, integrity of Hubbard and the Organization.

From 1971 through 1981, Defendant Armstrong was a member of the Sea Organization, a group of highly trained scientologists who were considered the upper echelon of the Scientology organization. During those years he was placed in various locations, but it was never made clear to him

exactly which Scientology corporation he was working for. Defendant Armstrong understood that, ultimately, he was working for L. Ron Hubbard, who controlled all Scientology finances, personnel, and operations while Defendant was in the Sea Organization.

Beginning in 1979 Defendant Armstrong resided at Gilman Hot Springs, California, in Hubbard's "Household Unit." The Household Unit took care of the personal wishes and needs of Hubbard at many levels. Defendant Armstrong acted as the L. Ron Hubbard Renovations In-Charge and was responsible for renovations, decoration, and maintenance of Hubbard's home and office at Gilman Hot Springs.

In January of 1980 there was an announcement of a possible raid to be made by the FBI or other law enforcement agencies of the property. Everyone on the property was required by Hubbard's representatives, the

Commodore's Messengers, to go through all documents located on the property and "vet" or destroy anything which showed that Hubbard controlled Scientology organizations, retained financial control, or was issuing orders to people at Gilman Hot Springs.

A commercial paper shredder was rented and operated day and night for two weeks to destroy hundreds of thousands of pages of documents.

During the period of shredding, Brenda Black, the individual responsible for storage of Hubbard's personal belongings at Gilman Hot Springs, came to Defendant Armstrong with a box of documents and asked whether they were to be shredded. Defendant Armstrong reviewed the documents and found that they consisted of a wide variety of documents including Hubbard's personal papers, diaries, and other writings from a

time before he started Dianetics in 1950, together with documents belonging to third persons which had apparently been stolen by Hubbard or his agents. Defendant Armstrong took the documents from Ms. Black and placed them in a safe location on the property. He then searched for and located another twenty or more boxes containing similar materials, which were poorly maintained.

On January 8, 1980, Defendant Armstrong wrote a petition to Hubbard requesting his permission to perform the research for a biography to be done about his life. The petition states that Defendant Armstrong had located the subject materials and lists of a number of activities he wished to perform in connection with the biography research.

Hubbard approved the petition, and Defendant Armstrong became the L. Ron Hubbard



Personal Relations Officer Researcher (PPRO Res). Defendant claims that this petition and its approval forms the basis for a contract between Defendant and Hubbard. Defendant Armstrong's supervisor was then Laurel Sullivan, L. Ron Hubbard's Personal Public Relations Officer.

During the first part of 1980, Defendant Armstrong moved all of the L. Ron Hubbard Archives materials he had located at Gilman Hot Springs to an office in the Church of Scientology Cedars complex in Los Angeles. These materials comprised approximately six file cabinets. Defendant Armstrong had located himself in the Cedars Complex, because he was also involved in "Mission Corporate Category Sort-Out," a mission to work out legal strategy. Defendant Armstrong was involved with this mission until June of 1980.

It was also during this early part of 1980 that Hubbard left the location in Gilman Hot Springs, California, and went into hiding. Although Defendant Armstrong was advised by Laurel Sullivan that no one could communicate with Hubbard, Defendant Armstrong knew that the ability for communication existed, because he had forwarded materials to Hubbard at his request in mid-1980.

Because of this purported inability to communicate with Hubbard, Defendant Armstrong's request to purchase biographical materials of Hubbard from people who offered them for sale went to the Commodore's Messenger Organization, the personal representatives of Hubbard.

In June of 1980 Defendant Armstrong became involved in the selection of a writer for the Hubbard biography. Defendant Armstrong learned that Hubbard had approved

of a biography proposal prepared by Omar Garrison, a writer who was not a member of Scientology. Defendant Armstrong had meetings with Mr. Garrison regarding the writing of the biography and what documentation and assistance would be made available to him. As understood by Mr. Garrison, Defendant Armstrong represented Hubbard in these discussions.

Mr. Garrison was advised that the research material he would have at his disposal were Hubbard's personal archives. Mr. Garrison would only undertake a writing of the biography if the materials provided to him were from Hubbard's personal archives, and only if his manuscript was subject to the approval of Hubbard himself.

In October of 1980 Mr. Garrison came to Los Angeles and was toured through the Hubbard archives materials that Defendant Armstrong had assembled up to that time.

This was an important "selling point" in obtaining Mr. Garrison's agreement to write the biography. On October 30, 1980, an agreement was entered into between Ralston-Pilot, ncv. F/S/O Omar V. Garrison, and AOSH DK Publications of Copenhagen, Denmark, for the writing of a biography of Hubbard.

Paragraph 10B of the agreement states that:

> "Publisher shall use its best efforts to provide Author with an office, an officer assistant and/or research assistant, office supplies and any needed archival and interview materials in connection with the writing of the Work."

The "research assistant" provided to Mr. Garrison was Defendant Armstrong.

During 1980 Defendant Armstrong exchanged correspondence with Intervenor regarding the biography project. Following

his approval by Hubbard as biography researcher, Defendant Armstrong wrote to Intervenor on February 5, 1980, advising her of the scope of the project. In the letter Defendant stated that he had found documents which included Hubbard's diary from his Orient trip, poems, essays from his youth, and several personal letters, as well as other things.

By letter of February 11, 1980, Intervenor responded to Defendant, acknowledging that he would be carrying out the duties of Biography Researcher.

On October 14, 1980, Defendant Armstrong again wrote to Intervenor, updating her on "Archives materials" and proposing certain guidelines for the handling of those materials.

It was Intervenor who, in early 1981, ordered certain biographical materials from

"Controller Archives" to be delivered to Defendant Armstrong. These materials consisted of several letters written by Hubbard in the 1920's and 1930's, Hubbard's Boy Scout books and materials, several old Hubbard family photographs, a diary kept by Hubbard in his youth, and several other items.

Defendant Armstrong received these materials upon the order of Intervenor, following his letter of October 15, 1980, to her in which Defendant stated, at page 7, that there were materials in the"Controller Archives" that would be helpful to him in the biography research.

After these materials were delivered to Defendant Armstrong, Intervenor was removed from her Scientology position of Controller in 1981, presumably because of her conviction for the felony of obstruction of justice in connection with the theft of

Scientology documents from various government offices and agencies in Washington, D.C.

During the time Defendant Armstrong worked on the biography project and acted as Hubbard Archivist, there was never any mention that he was not to be dealing with Hubbard's personal documents or that the delivery of those documents to Mr. Garrison was not authorized.

For the first year or more of the Hubbard biography and archive project, funding came from Hubbard's personal staff unit at Gilman Hot Springs, California. In early 1981, however, Defendant Armstrong's supervisor, Laurel Sullivan, ordered him to request that funding come from what was known as SEA Org Reserves. Approval for this change in funding came from the SEA Org Reserves Chief and Watch Dog Committee, the top Commodores Messenger Organization

unit, who were Hubbard's personal representatives.

From November of 1980 through 1981, Defendant Armstrong worked closely with Mr. Garrison, assembling Hubbard's archives into logical categories, copying them and arranging the copies of the Archives materials into bound volumes. Defendant Armstrong made two copies of almost all documents copied for Mr. Garrison - one for Mr. Garrison and the other to remain in Hubbard Archives for reference or recopying. Defendant Armstrong created approximately 400 binders of documents. The vast majority of the documents for Mr. Garrison came from Hubbard's personal Archives, of which Defendant Armstrong was in charge. Materials which came from other Archives, such as the Controller Archives, were provided to Defendant Armstrong by Scientology staff members who had these documents in their

care.

It was not until late 1981 that Plaintiff was to provide a person to assist on the biography project by providing Mr. Garrison with "Guardian Office' materials, otherwise described as technical materials relating to the operation of Scientology. The individual appointed for this task was Vaughn Young. Controller Archives and Guardian Office Archives had no connection to the Hubbard Archives, which Defendant Armstrong created and maintained as Hubbard's personal materials.

In addition to the assemblage of Hubbard's Archives, Defendant Armstrong worked continually on researching and assembling materials concerning Hubbard by interviewing dozens of individuals, including Hubbard's living aunt, uncle, and four cousins. Defendant Armstrong did a geneology study of Hubbard's family and collected,

assembled, and read hundreds of thousands of pages of documentation in Hubbard's Archives.

During 1980 Defendant Armstrong remained convinced of Hubbard's honesty and integrity and believed that the representations he had made about himself in various publications were truthful. Defendant Armstrong was devoted to Hubbard and was convinced that any information which he discovered to be unflattering of Hubbard or contradictory to what Hubbard has said about himself, was a lie being spread by Hubbard's enemies. Even when Defendant Armstrong located documents in Hubbard's Archives which indicated that representations made by Hubbard and the Organization were untrue, Defendant Armstrong would find some means to "explain away" the contradictory information.

Slowly, however, throughout 1981, Defendant Armstrong began to see that Hubbard and the Organization had continuously lied about Hubbard's past, his credentials, and his accomplishments. Defendant Armstrong believed, in good faith, that the only means by which Scientology could succeed in what Defendant Armstrong believed was its goal of creating an ethical environment on earth, and the only way Hubbard could be free of his critics, would be for Hubbard and the Organization to discontinue the lies about Hubbard's past, his credentials, and accomplishments. Defendant Armstrong resisted any public relations piece or announcement about Hubbard which the L. Ron Hubbard Public Relations Bureau proposed for publication which was not factual. Defendant Armstrong attempted to change and make accurate the various "about the author" sections in Scientology books,

and further, Defendant rewrote or critiqued several of these and other publications for the L. Ron Hubbard Public Relations Bureau and various Scientology Organizations. Defendant Armstrong believed and desired that the Scientology Organization and its leader discontinue the perpetration of the massive fraud upon the innocent followers of Scientology, and the public at large.

Because of Defendant Armstrong's actions, in late November of 1981, Defendant was requested to come to Gilman Hot Springs by Commodore Messenger Organization Executive, Cirrus Slevin. Defendant Armstrong was ordered to undergo a "security check," which involved defendant Armstrong's interrogation while connected to a crude Scientology lie detector machine called an E-meter.

The Organization wished to determine what materials Defendant Armstrong had

provided to Omar Garrison, Defendant Armstrong was struck by the realization that the Organization would not work with him to correct the numerous fraudulent representations made to followers of Scientology and the public about L. Ron Hubbard and the Organization itself. Defendant Armstrong, who, for twelve years of his life, had placed his complete and full trust in Mr. and Mrs. Hubbard and the Scientology Organization, saw that his trust had no meaning and that the massive frauds perpetrated about Hubbard's past, credentials, and accomplishments would continue to be spread.

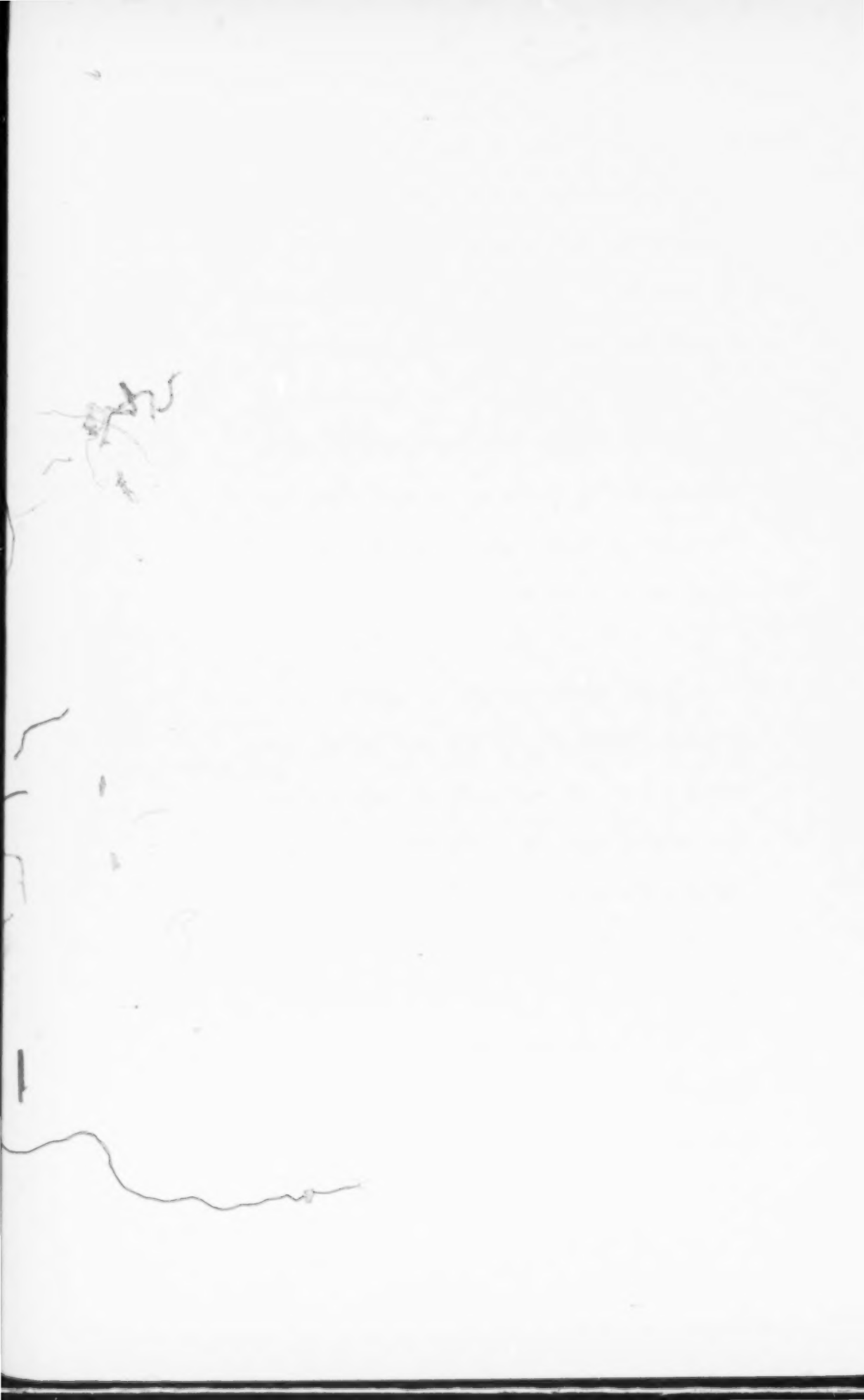
Less than three weeks before Defendant Armstrong left Scientology, he wrote a letter to Cirrus Slevin on November 25, 1981, in which it is clear that his intentions in airing the inaccuracies, falsehoods, and frauds regarding Hubbard were done in good

faith. In his letter he stated as follows:

"If we present inaccuracies, hyperbole or downright lies as fact or truth, it doesn't matter what slant we give them, if disproved the man will look, to outsiders at least, like a charlatan. This is what I'm trying to prevent and what I've been working on the past year and a half.

. . .

"and that is why I said to Norman that it is up to us to insure that everything which goes out about LRH is one hundred percent accurate. That is not to say that opinions can't be voiced, they can. And they can contain all the hype you want. But they should not be construed as facts. And anything stated as a fact



should be documentable.

"we are in a period when 'investigative reporting' is popular, and when there is relatively easy access to documentation on a person. We can't delude ourselves I believe, if we want to gain public acceptance and cause some betterment in society, that we can get away with statements, the validity of which we don't know.

"The real disservice to LRH, and the ultimate make-wrong is to go on assuming that everything he's ever written or said is one hundred percent accurate and publish it as such without verifying it. I'm talking here about biographical or non-technical writings. This only leads, should

any of his statements turn out to be inaccurate, to a make-wrong of him, and consequently his technology.

"That's what I'm trying to remedy and prevent.

. . .

"To say that LRH is not capable of hype, errors or lies is certanly [sic] not granting him much of a beingness. To continue on with the line that he has never erred nor lied is counterproductive. It is an unreal attitude and too far removed from both the reality and people in general that it would widen public unacceptance.

. . .

". . . That is why I feel the falsities must be corrected, and why we must verify our facts and present them in a favorable light."

The remainder of the leter contains examples of facts about Hubbard which Defendant Armstrong found to be wholly untrue or inaccurate and which were represented as true by the Hubbards and the Scientology Organization.

In December of 1981 Defendant Armstrong made the decision to leave the Church of Scientology. In order to continue in his commitment to Hubbard and Mr. Garrison in the biography project, he copied a large quantity of documents, which Mr. Garrison had requested or which would be useful to him for the biography. Defendant Armstrong delivered all of this material to Mr. Garrison the date he left the SEA Organization and kept nothing in his possession.

Thereafter, Defendant Armstrong maintained friendly relations with Hubbard's representatives by returning to the Archives office and discussing the various categories

of materials. In fact on February 24, 1982, Defendant Armstrong wrote to Vaughn Young, regarding certain materials Mr. Young was unable to locate for Omar Garrison.

After this letter was written, Defendant Armstrong went to the Archives office and located certain materials Mr. Garrison had wanted which Hubbard representatives claimed they could not locate.

At the time Defendant Armstrong left the SEA Organization, he was disappointed with Scientology and Hubbard, and also felt deceived by them. However, Defendant Armstrong felt he had no enemies and felt no ill will toward anyone in the Organization or Hubbard, but still believed that a truthful biography should be written.

After leaving the SEA Organization, Defendant Armstrong continued to assist Mr. Garrison with the Hubbard biography project. In the spring of 1982, Defendant

Armstrong at Mr. Garrison's request, transcribed some of his interview tapes, copied some of the documentation he had, and assembled several more binders of copied materials. Defendant Armstrong also set up shelves for Mr. Garrison for all the biography research materials, worked on a cross-reference systems, and continued to do library research for the biography.

On February 18, 1982, The Church of Scientology International issued a "Suppressive Person Declare Gerry Armstrong," which is an official Scientology document issued against individuals who are considered as enemies of the Organization. Said Suppressive Person Declare charged that Defendant Armstrong had taken an unauthorized leave and that he was spreading destructive rumors about Senior Scientologists.

Defendant Armstrong was unaware of said Suppressive Person Declare until April of 1982. At that time a revised Declare was issued on April 22, 1982. Said Declare charged Defendant Armstrong with 18 different "Crimes and High Crimes and Suppressive Acts Against the Church." The charges included theft, juggling accounts, obtaining loans on money under false pretenses, promulgating false information about the Church, its founder, and members, and other untruthful allegations designed to make Defendant Armstrong an appropriate subject of the Scientology "Fair Game Doctrine." Said Doctrine allows any suppressive person to be "tricked, cheated, lied to, sued, or destroyed."

The second declare was issued shortly after Defendant Armstrong attempted to sell photographs of his wedding on board Hubbard's ship (in which Hubbard appears), and

photographs belonging to some of his friends, which also included photos of L.R. Hubbard while in seclusion. Although Defendant Armstrong delivered the photographs to a Virgil Wilhite for sale, he never received payment or return of his friend's photographs. When he became aware that the Church had these photographs, he went to the Organization to request their return. A loud and boisterous argument ensued, and he eventurally was told to leave the premises and get an attorney.

From his extensive knowledge of the covert and intelligence operations carried out by the Church of Scientology of California against its enemies (suppressive persons), Defendant Armstrong became terrified and feared that his life and the life of his wife were in danger, and he also feared he would be the target of costly and harassing lawsuits. In addition,

Mr. Garrison became afraid for the security of the documents and believed that the intelligence network of the Church of Scientology would break and enter his home to retrieve them. Thus, Defendant Armstrong made copies of certain documents for Mr. Garrison and maintained them in a separate location.

It was thereafter, in the summer of 1982, that Defendant Armstrong asked Mr. Garrison for copies of documents to use in his defense and sent the documents to his attorneys, Michael Flynn and Contos & Bunch.

After the within suit was filed on August 2, 1982, Defendant Armstrong was the subject of harassment, including being followed and surveilled by individuals who admitted employment by Plaintiff; being assaulted by one of these individuals; being struck bodily by a car driven by one of these individuals; having two attempts

made by said individuals apparently to involve Defendant Armstrong in a freeway automobile accident; having said individuals come onto Defendant Armstrong's property, spy in his windows, create disturbances, and upset his neighbors. During trial when it appeared that Howard Schomer (a former Scientologist) might be called as a defense witness, the Church engaged in a somewhat sophisticated effort to suppress his testimony. It is not clear how the church became aware of defense intentions to call Mr. Schomer as a witness, but it is abundantly clear they sought to entice him back into the fold and prevent his testimony.